



# *Arizona Peace Officer Standards and Training Board*

2643 East University Drive Phoenix, Arizona 85034-6914 Phone (602) 223-2514 Fax (602- 244-0477

## **MINUTES OF THE JUNE 19, 2019 MEETING OF THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on June 19, 2019, at the Arizona Peace Officer Standards and Training Board, located at 2643 E. University Drive, Phoenix, AZ.

### Members Present:

Assistant Attorney General Paul Ahler, representing Attorney General Mark Brnovich  
Sheriff Mark Dannels, Cochise County Sheriff's Office (via telephone)  
Ms. Jamie Kelly, Public Member  
Officer Matthew Medina, Prescott Police Department  
Colonel Frank Milstead, AZ Department of Public Safety  
Deputy Christopher Pittmann, Maricopa County Sheriff's Office  
Director Charles Ryan, AZ Department of Corrections

### Members Absent:

Chief Tom Kelly, Apache Junction Police Department  
Mr. Andrew LeFevre, Grand Canyon University  
Sheriff Scott Mascher, Yavapai County Sheriff's Office, Chairman  
Chief Alan Rodbell, Scottsdale Police Department

### Staff in Attendance:

Matt Giordano, Executive Director  
Ben Henry, Deputy Director  
Billy Caldwell, Compliance Specialist  
Dan Ciernia, Video Production Supervisor  
Mike Deltenre, Compliance Specialist  
Marie Dryer, Program Administrator  
Steve Jacobs, Compliance Specialist  
Cathy Hawse, Compliance Specialist  
Arlene Heckel, Compliance Specialist  
Mike Orose, Compliance Specialist  
Lynn Pirkle, Administrative Services Officer  
Kip Rustenburg, Program Administrator  
Cindy Sawyer, Compliance Specialist  
Sandy Sierra, Administrative Services Officer  
Lori Wait, Compliance Specialist

Assistant Attorneys General:

Seth Hargraves

Mark Brachtl

John Tellier

**A. Call to Order**

Acting Chairman Milstead called the meeting to order at 10:04 a.m. and asked Director Ryan to lead everyone in reciting the Pledge of Allegiance.

**B. Introductions, Presentations and Announcements**

*Matt Giordano, Executive Director*

- Assistant Attorney General John Tellier will provide legal advice to the Board on one final action case; 19-030 Justin S. Angel.
- For the record, four Board members are not present; Mr. Andrew LeFevre, Chief Tom Kelly, Chief Alan Rodbell and Sheriff Scott Mascher. Sheriff Dannels will be participating via telephone. There are still two Board member vacancies (public member and jail administrator).
- One Final Action case will be removed from the agenda; 19-014 Michael J. Gallego. Two charging cases will be removed from the agenda for further clarification; 19-048 Kyle C. Hunt and 19-031 Nicholas R. Jensen.
- Two individuals that are on the training deficiency list have completed the required annual training; their names have been removed from the Consent Agenda; Daniel Moreno and Johnny Vidrio.
- The voluntary relinquishment consent agreement for Excalibur A. Rosalin can also be removed from the Consent Agenda. It will be tabled for a future date.
- Class #20 of the Chandler Gilbert Community College Law Enforcement Training Academy is present today; thank you to Director Jon Terpay for bringing the class to the meeting.

**C. Executive Director's Report**

*Matt Giordano, Executive Director*

- Budget wise CJEF funding is still down for the year. There was significant increase in revenues for last month so our deficit is shrinking; we are hopeful it will all balance out as we reach the end of the fiscal year.
- A candidate has been selected to fill the Systems Administrator position. He has successfully completed the background process and we are hoping he will be onboard by mid-July.
- After the Board initiates proceedings an officer has the opportunity to request a hearing before an Administrative Law Judge; the timeline for this is substantial. We are working on speeding this process up and over the next few months we will be looking at ways to do this. We will no longer wait for internal and criminal cases to be completely adjudicated before we start working on the case. This was one of the issues that caused major delays.
- Our monthly Board meeting in July will be held at the Little America Hotel in Flagstaff in conjunction with the Law Enforcement Summit. The Board meeting will be held Wednesday, July 17 from 2-4 pm. On Thursday morning from 8-12 we are hosting a 4-hour class on Seven Points of Wellness.
- With the proposed legislation that would mandate training for members of the deaf and hard of hearing community, we met with members of the AZ Commission on the Deaf and Hard of Hearing and are working with them on a training platform for that community. This also

springboarded into something a little bit bigger. I met with multiple members of multiple disability entities statewide, along with Representatives Longdon and Kavanaugh, to brainstorm on how we can help peace officers around the state have better access to training and better access to experts to help them deal with members of the community with disabilities.

**D. Legislative Update**

*Matt Giordano, Executive Director*

The 2020 budget was approved by the legislature and provides an increase in appropriated funds for AZPOST. This is only the second year that we have ever received appropriated funds. We now have funds we can use toward basic training as well as for additional training for school resource officers.

**E. Review, Discussion and Possible Action on a Substantive Policy Statement concerning the use of Products Containing Cannabidoil (CBD)**

*Matt Giordano, Executive Director*

The use of marijuana is clearly delineated in AZPOST rules; what is not delineated is the use of CBD oil. CBD oil is now sold just about everywhere and can be found as an ingredient in numerous items such as lotions, creams and even foods and drinks. Police agencies have seen an increase in the number of applicants that have disclosed the use of products containing CBD during their backgrounds. What we are finding is someone who might rub a product containing CBD oil on their elbow or knee before going out for a run. Right now we are strictly looking at that as a marijuana use. If you look at the statute and look at the Farm Bill of 2018, the law has given some provisions that allow that to be cultivated; there is no enforcement and you can buy it without a prescription at any store in some form or another.

We are not looking to circumvent the rules, we are looking for clarity from the Board on how to proceed with applicants and the use of CBD oil. The proposed Substantive Policy Statement is not changing the rules, it is just clarifying this for us. We are asking that the Board consider allowing us to not count the use of CBD oil as a use of marijuana, a narcotic or a dangerous drug.

Board members Milstead and Dannels both voiced their concerns over the lack of testing and information that is available concerning CBD oil but both agreed with the proposed Substantive Policy Statement.

Director Ryan made a motion that the Substantive Policy Statement as reflected in this discussion be adopted and published in accordance with the Arizona Administrative Procedures Act relative to the draft of the proposed Substantive Policy Statement concerning the use of products containing CBD. The motion was seconded by Sheriff Dannels and passed unanimously.

**F. Consent Agenda**

Sheriff Dannels made a motion to accept the Consent Agenda. The motion was seconded by Director Ryan and passed unanimously.

1. Consent Agreements for Voluntary Relinquishment of Peace Officer Certification. The following individuals, without admitting to any misconduct, requests the Board accept their request to permanently relinquish their Arizona peace officer certification:

Richard Daniel	19-026	Tucson Police Department
Joshua N. Norman	19-033	Mesa Police Department
Guadalupe B. Paz	18-163	Somerton Police Department

2. Training Audit Deficiencies. The following individuals are deficient in their required annual training. The Board shall restrict their certified status until this deficiency is corrected:

Eric Lady	Avondale Police Department
Daniel Schmidt	Flagstaff Police Department
Caleb Davis	Winslow Police Department
Melissa Norred	Yuma Police Department

3. Non-Aggravating DUI Case for consideration and/or action as No Action with Agency Discretion:

Jamon D. Lane	19-057	Tucson Police Department
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**G. Review, Discussion and Possible Action on a Mesa Police Department Petition of the Drug Experimentation Rule, or in the alternative, a Waiver of the Seven Year Restriction from A.A.C. R13-4-105(A)(14) for Applicant Tanner Johnson**

Assistant Attorney General Seth Hargraves addressed the Board regarding the Mesa Police Department petition of the drug experimentation rule, or in the alternative, waiver of the seven year restriction from A.A.C. R13-4-105(A)(14) for Applicant Tanner Johnson. Commander Bill Peters, Mesa Police Department, addressed the Board to request that the petition be granted.

Deputy Pittman made a motion to grant the request for waiver of the seven year restriction from A.A.C. R13-4-105(A)(14); based upon the information submitted by the Mesa Police Department, I believe that the best interests of the law enforcement profession would be served and the public welfare and safety would not be jeopardized by the waiver. The motion was seconded by Ms. Kelly and passed unanimously.

**H. Review, Discussion and Possible Action on a Mesa Police Department Petition of the Drug Experimentation Rule, or in the alternative, a Waiver of the Seven Year Restriction from A.A.C. R13-4-105(A)(14) for Applicant Eboné Culliver**

Assistant Attorney General Seth Hargraves addressed the Board regarding the Mesa Police Department petition of the drug experimentation rule, or in the alternative, waiver of the seven year

restriction from A.A.C. R13-4-105(A)(14) for Applicant Eboné Culliver. Commander Bill Peters, Mesa Police Department, addressed the Board to request that the petition be granted.

Deputy Pittmann made a motion to grant the request for waiver of the seven year restriction from A.A.C. R13-4-105(A)(14); based upon the information submitted by the Mesa Police Department, I believe that the best interests of the law enforcement profession would be served and the public welfare and safety would not be jeopardized by the waiver. The motion was seconded by Director Ryan and passed unanimously.

**I. Review, Discussion and Possible Action on an AZ Department of Agriculture Petition for determination that a on-time sale of marijuana constitutes juvenile indiscretion under A.A.C. R13-4-105(D) for Applicant Charles Hornburg**

Assistant Attorney General Seth Hargraves addressed the Board regarding the AZ Department of Agriculture petition for determination that a on-time sale of marijuana constitutes juvenile indiscretion under A.A.C. R13-4-105(D) for Applicant Charles Hornburg. Assistant Director Chris McCormack, Department of Agriculture, addressed the Board to request that the petition be granted.

Mr. Ahler (AAG) made a motion to determine that the information submitted is sufficient for the Board to determine that the conduct constituted juvenile indiscretion and therefore grant the appointment. The motion was seconded by Deputy Pittmann and passed unanimously.

**J. Review, Discussion and Possible Action on a Camp Verde Marshal's Office Petition for determination that applicant's drug use was for experimentation for Applicant Corey Lee Rowley**

Assistant Attorney General Seth Hargraves addressed the Board regarding the Camp Verde Marshal's Office petition for determination that Applicant Corey Lee Rowley's drug use was for experimentation. Town Manager Russ Martin, Camp Verde, addressed the Board to request that the petition be granted.

Director Ryan made a motion to grant the petition for a determination that the drug usage by Corey Lee Rowley was experimental. The motion was seconded by Deputy Pittmann and passed unanimously.

**K. Review, Discussion and Possible Action on an Apache County Sheriff's Office Petition of the Drug Experimentation Rule, or in the alternative, a Waiver of the Seven Year Restriction from A.A.C. R13-4-105(A)(14) for Applicant Daniel Walker**

Assistant Attorney General Seth Hargraves addressed the Board regarding the Apache County Sheriff's Office petition of the drug experimentation rule, or in the alternative, waiver of the seven year restriction from A.A.C. R13-4-105(A)(14) for Applicant Daniel Walker. Chief Deputy Brannon Eagar, Apache County Sheriff's Office, addressed the Board to request that the petition be granted.

Director Ryan made a motion to grant the request for waiver of the seven year restriction from A.A.C. R13-4-105(A)(14); based upon the information submitted by the Apache County Sheriff's Office, I believe that the best interests of the law enforcement profession would be served and the public

welfare and safety would not be jeopardized by the waiver. The motion was seconded by Sheriff Dannels and passed unanimously.

**L. Review, Discussion and Possible Action on a Phoenix Police Department Petition for waiver of the Board's standards/qualifications regarding past criminal conduct for Applicant Cesar Marquez**

Assistant Attorney General Seth Hargraves addressed the Board regarding the Phoenix Police Department petition for waiver of standards/qualifications regarding past criminal conduct for Applicant Cesar Marquez. Commander Darren Viner, Phoenix Police Department, addressed the Board to request that the petition be granted.

Director Ryan made a motion to grant the request for waiver of the Board's standards/qualifications regarding past criminal conduct; based upon the information submitted by the Phoenix Police Department, I believe that the best interests of the law enforcement profession would be served and the public welfare and safety would not be jeopardized by the waiver. The motion was seconded by Mr. Ahler (AAG) and passed with two nay votes recorded for Officer Medina and Deputy Pittmann.

**M. Final Action Cases:**

1. #19-030 – Justin S. Angel – Chino Valley Police Department

The Board considered comments from Assistant Attorney General Seth Hargraves, who provided a brief overview of the case and the terms of the proposed consent agreement. Deputy Pittmann made a motion to accept the Consent Agreement, Decision and Order and revoke peace officer certification. The motion was seconded by Officer Medina and passed unanimously.

The Board received independent legal advice from Assistant Attorney General John Tellier who advised the Board that a roll call vote would be needed due to the disciplinary sanction being imposed. A roll call vote was taken and all Board members voted aye.

2. #19-011 – Brian A. Aikens – Cocopah Tribal Police Department

The Board considered comments from Deputy Director Ben Henry, who provided a brief overview of the case and informed the Board that Mr. Aikens, only yesterday, signed a Consent Agreement to voluntarily relinquish his peace officer certification. Mr. Ahler (AAG) made a motion to accept the Consent Agreement, Decision and Order for voluntary relinquishment of Mr. Aikens' peace officer certification. The motion was seconded by Director Ryan and passed unanimously.

3. #18-144 – Kristi A. Tausinga – AZ Department of Transportation - ECD

The Board considered comments from Deputy Director Ben Henry, who provided a brief overview of the case. Sheriff Dannels made a motion to accept the Findings of Fact and Conclusions of Law and revoke Ms. Tausinga's peace officer certification. The motion was seconded by Director Ryan and passed unanimously.

4. #19-014 – Michael J. Gallego – AZ Department of Public Safety

This case was tabled.

**N. New Charging Cases:**

1. #19-048 – Kyle C. Hunt – Tolleson Police Department  
This case was tabled for further clarification.
2. #18-142 – Jesse N. Ornelas – El Mirage Police Department  
The Board considered comments from Compliance Specialist Billy Caldwell, who provided a brief overview of the case. Mr. Ahler (AAG) made a motion to **Initiate Proceedings** against Mr. Ornelas' peace officer certification. The motion was seconded by Deputy Pittmann and passed unanimously.
3. #19-060 – Santiago Zuniga – Phoenix Police Department  
The Board considered comments from Compliance Specialist Mike Deltenre, who provided a brief overview of the case. Deputy Pittmann made a motion to **Resolve in Future**. The motion was seconded by Officer Medina and passed unanimously.
4. #18-123 – Nathaniel J. Winston – Tohono O'odham Nation Police Department  
The Board considered comments from Compliance Specialist Arlene Heckel, who provided a brief overview of the case. Mr. Ahler (AAG) made a motion to **Initiate Proceedings** against Mr. Winston's peace officer certification. The motion was seconded by Director Ryan and passed unanimously.
5. #19-007 – Bryce W. Gardner – South Tucson Department of Public Safety  
The Board considered comments from Compliance Specialist Cathy Hawse, who provided a brief overview of the case. Deputy Pittmann made a motion to **Initiate Proceedings** against Mr. Gardner's peace officer certification. The motion was seconded by Ms. Kelly and passed unanimously.
6. #19-049 – David A. Shatto – Colorado River Indian Tribes Police Department  
The Board considered comments from Compliance Specialist Steve Jacobs, who provided a brief overview of the case. Officer Medina made a motion to **Initiate Proceedings** to deny peace officer certification to Mr. Shatto. The motion was seconded by Deputy Pittmann and passed unanimously.
7. #19-031 – Nicholas R. Jensen – Gila River Police Department  
This case was tabled for further clarification.
8. #19-005 – Dhanielle R. DeClay – Miami Police Department  
The Board considered comments from Compliance Specialist Lori Wait, who provided a brief overview of the case. Deputy Pittmann made a motion to **Initiate Proceedings** against Ms. DeClay's peace officer certification. The motion was seconded by Ms. Kelly and passed unanimously.

9. #18-136 – Jade R. Gishie – Holbrook Police Department

The Board considered comments from Compliance Specialist Lori Wait, who provided a brief overview of the case. Director Ryan made a motion to ***Initiate Proceedings*** to deny peace officer certification to Ms. Gishie. The motion was seconded by Deputy Pittmann and passed unanimously.

**O. Future Agenda Items**

There are no items to add; just a reminder that the July meeting will be held in Flagstaff.

**P. Adjournment**

The meeting was adjourned at 11:19 a.m.